

Translation

Rec'd PCT/PTO 05 JAN 2005

PCT/EP2003/005441

PATENT COOPERATION TREATY



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P036015/WO1	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/005441	International filing date (day/month/year) 24 May 2003 (24.05.2003)	Priority date (day/month/year) 06 July 2002 (06.07.2002)
International Patent Classification (IPC) or national classification and IPC B62D 21/15		
Applicant DAIMLERCHRYSLER AG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of \_\_\_\_\_ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 17 November 2003 (17.11.2003)	Date of completion of this report 12 October 2004 (12.10.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/005441

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
pages \_\_\_\_\_ 1-9 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
pages \_\_\_\_\_ 1-18 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the drawings:  
pages \_\_\_\_\_ 1/2, 2/2 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/05441

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

## 1. Statement

Novelty (N)	Claims	2-5, 8, 9, 11-18	YES
	Claims	1, 6, 7, 10	NO
Inventive step (IS)	Claims	2-5, 8, 9, 11-18	YES
	Claims	1, 6, 7, 10	NO
Industrial applicability (IA)	Claims	1-18	YES
	Claims		NO

## 2. Citations and explanations

1. DE-A-10007789 (D1) describes a drive train component (4) for an engine compartment with an engine which, in the event of an impact beyond a certain degree of severity, is displaced in the engine compartment, the drive train component being incorporated into a power path introduced by the collision into an engine compartment, and having at least two different levels, means being provided that introduce a shift from one level to another level according to the position of the engine in the engine compartment.

It should be noted that claim 1 does not indicate that the shift from one level to another level takes place actively according to previously determined parameters. It should also be noted that the feature "shift from a first level to the second level takes place actively" cannot be found in this general form in the description. The second paragraph of page 4 merely mentions actuators connected to a control unit that cooperates with sensors.

The expression "means being provided that trigger a shift from one level to another level according to the position of the engine in the engine compartment" used in the claim is so general that it is certainly covered by the drive

train component known from D1, because a shift also occurs in that case, and therefore means must be present that trigger this shift.

Therefore, the subject matter of claim 1 lacks novelty.

2. Claim 2 lacks clarity insofar as it is to be carried out by an active arrangement and by a passive arrangement, and therefore it is not clear to a person skilled in the art how the switch to the second level is triggered.

3. Introducing a clarification, for example by including an actuator connected to a control unit that cooperates with sensors (see the second paragraph of page 4 of the description), could also lead to an independent claim, the subject matter of which would meet the requirements of PCT Article 33(2) and (3).

4. The features of claims 6, 7 and 10 are known from D1, and therefore the subject matter of said claims lacks novelty.

5. The remaining claims would appear to be admissible, provided that they refer back to an admissible independent claim.